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Written statement* submitted by the Public Organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 August 2018]

* Issued as received, in the language(s) of submission only.

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On the International Tendency to Violations of the Right to Freedom of Religion and Canonical Identity in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia

The UN Human Rights Council needs to pay attention to new types of offenses, committed by politicians having state power in Ukraine, Montenegro and the Former Yugoslav Republic of Macedonia. Such offenses are committed against one and the same group of victims, united by the sign of their belonging to the canonical Orthodox Church.
Regretfully, the listed states violate the human right to believe and profess religious beliefs as part of a freely chosen religious organization.

The above mentioned states strive to impose on the church their vision of what church they need to go to and what church is more "appropriate" from the point of view of nationalism and the new state policy.
In particular, this is precisely the attitude shown by the state power of Ukraine to the Ukrainian Orthodox Church, being far and wide unreasonably accused of its "links with Moscow", "support of separatism", and "anti-Ukrainian vector". Hate speech and open propaganda of aggression in the media leads to en masse violations of the rights of this denomination.

In fact, since 2015, only in Western Ukraine more than 40 temples of the UOC have been subject to church raiding. The state openly supports the alternative non-canonical so-called Ukrainian Orthodox Church of the Kiev Patriarchate. In a number of cases, the government publicly seeks to protect the interests of the Kiev Patriarchate by exerting pressure on the judiciary.

An example of such a case is the situation in Ptichya village, where the community of the UOC, being the owner of the temple, has lost its ownership and property rights because of the court decision to arrest the temple. Such a decision is political, since the UOC community won all the trials that confirmed its legal title to the property. This case is an example of not respecting Ukraine's legitimate institution of property rights essentially. The use of force against the believers of Katerinovka village of Ternopol region when police structures beat up believers of the UOC with the use of truncheons, who were going to enter their own temple, also blatantly violates human rights.

Unfortunately, despite the explicit nature of the violation of the UOC rights and numerous appeals of the victims to the police, we do not know any cases of bringing radicals and other offenders, who have committed public crimes against believers in this Church, to justice.

Moreover, in 2018 senior statesmen – the President, the head of Parliament, MPs of different levels, the Minister of Foreign Affairs considered it necessary to openly intervene in ecclesiastic affairs and use the administrative resource to lobby the creation of the Single Local Church in Ukraine. Civil servants, including power structures, such as the Security Service of Ukraine, interfere in church affairs, exerting pressure on the hierarchy of the UOC to force them to support the new ecclesiastical – but in fact – political ideas of the ruling power. More detailed information about the situation in Ukraine is available:

1. in our statements at previous sessions of the UN Human Rights Council:
   http://undocs.org/en/A/HRC/38/NGO/13, http://undocs.org/en/A/HRC/38/NGO/14,
   http://undocs.org/en/A/HRC/38/NGO/15, http://undocs.org/en/A/HRC/38/NGO/21,
   http://undocs.org/en/A/HRC/38/NGO/22,
2. as well as in the human rights report:
   https://www.protiktor.com/app/download/6756821863/Ukraine+Orthodox+Report+2016.pdf?t=1530605303
3. and on the information page of our human rights organization: https://www.protiktor.com/eng/

In Montenegro, a similar situation arose due to the attitude of the state towards the canonical Archbishops of the Serbian Orthodox Church. Public servants and influential politicians support the non-canonical Montenegrin Orthodox Church, created with the support of the authorities as alternative to canonical Orthodoxy. Nationalist politicians believe there is a more patriotic and less patriotic Church, at the same time presuming to exert an unlawful pressure on the canonical Churches. An example of such pressure is draft law "On Freedom of Religion", submitted to the Parliament

by the Government of Montenegro, Article 52 of which provides for the nationalization of historical property, created by believers until 1918, in favor of the state. Despite negative conclusions of the Venice Commission and the OSCE, this bill continues to be pending and may be finally approved. The situation of Orthodox Christians in Montenegro is described in more detail in our separate statement, presented to the attention at the 39th session of the UN Human Rights Council

In Macedonia, the Ohrid Archbishopric of the Serbian Orthodox Church is under tremendous pressure from the state, which supports the non-canonical so-called "Macedonian Orthodox Church". The authorities presume to provide power support to the non-canonical church, as a result of which the monasteries of the Ohrid Archbishopric were illegally seized. The head of the Ohrid Archbishopric, Archbishop John (Vranishkovsky), has been repeatedly subjected to arbitrary arrest and imprisonment, the total term of which in aggregate exceeds 5 years. The authorities of Macedonia refused to provide state registration for the Ohrid Archbishopric of the Serbian Orthodox Church, so this confession was compelled to appeal to the European Court of Human Rights, which decided in favor of the canonical Church, confirming the violation of the believers' rights by the Macedonian state. This situation is described in more detail in our statement for the 38th Session of the UNHRC No. A/HRC/38/NGO/23.

Consequently, arising from the above facts, we can say that a new type of international offenses is being formed in the world. Victims of such violations are religious organizations and believers of the canonical Orthodox Church of different countries of the world, while offenders are politicians who have received state power and use it contrary to the interests of their people. The party liable for such offenses is both the above politicians, as well as states which fail to fulfill their international obligations to protect human rights in their territory.

In this regard, it is important to protect the right of believers to canonical identity, i.e. the right to profess their faith within the denomination that corresponds to the religious beliefs of a person. It is necessary to affirm the understanding that religion and faith determine a person's relationship with God and regulate human behavior in a wide sphere of life, excluding political aspects. Although religious leaders often interact with such aspects, it is nevertheless necessary to respect international right to profess religion, both internally and through external religious actions, beyond the political context that can be attributed to a particular religious organization or its leaders. The Church unites people of different political views, reconciling them with each other on the basis of the Gospel commandments. States, in turn, must ensure a real and not formal separation of politics from the Church and maintain a neutral and equitable position with regard to the population of their territories, regardless of their religious and political views. This is precisely how the principle of the rule of law and legal order is affirmed and carried out, with real guarantees of human rights being implemented.

It is also necessary to take into account the legal aspect of the autonomy of church organizations as corporations of private law. At present, most states recognize the possibility for any person to create religious organizations. As a rule, legal systems allow registration of religious organizations to small groups of individuals who independently define the name and can include parts of denominations of other faiths, such as "Orthodox", "Catholic", etc. Churches are therefore established, and though they bear the names "Orthodox", they are not recognized as Orthodox by other religious organizations. The reason for this situation is non-compliance of the procedure for the creation of these new structures with canon law, recognized by the world's Orthodox religious centers, which are called Local Churches making part of the World Orthodoxy. The binding force of the norms of canon law as corporate or customary law of a religious organization or associations is recognized by many legal systems.

Therefore, states should respect the right of a religious organization to independently decide on issues of belonging or withdrawing from a particular religious center, the right to determine the membership procedure and the formation of governing bodies in statutes and internal regulations of a religious organization. Unfortunately, in a number of countries, such as Ukraine, this right is also being questioned, which is unacceptable (see the statement of NGO Public Advocacy, no. A/HRC/38/NGO/23). The law and practice of the ECHR have repeatedly asserted the right to ecclesiastical autonomy and the right of religious organizations to independently form their own internal structure of membership and administration, as well as the right to enter or not be part of certain religious centers.
We believe that the current situation calls for the intervention of the Human Rights Council and specific actions, aimed at putting an end to the pressure imposed on canonical Orthodoxy by the political authorities of Ukraine, Macedonia and Montenegro.

We are convinced that without active implementation of international human rights mechanisms, these countries are not able to ensure, by their own efforts, the enforcement of the norms of international law and national legislation guaranteeing to the full extent the freedom of religious belief.